

46 Am. Jur. 2d Judges § 4

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Judges

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I. In General

§ 4. Legislative power to abolish judge's office

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West's Key Number Digest

West's Key Number Digest, [Judges](#)  1, 2

The legislature generally cannot deprive a judge of the office or of the right to exercise the duties arising from that office by abolishing the court or the judicial district to which the judge was elected prior to the expiration of the judge's term as that term is fixed by a state constitution.¹

Statutes abolishing courts sometimes contain saving clauses to the effect that they will not affect the tenure of the judges.²

A statute abolishing an existing office and creating the office of judge in its place is not invalid as an attempt to legislate the incumbent of the first office out of office, where the form and structure of the two offices are substantially different.³

Where the executive branch has exclusive authority to appoint judicial officers, a statute declaring the office of chief justice administrative and providing for the manner of their selection and term of office has been found unconstitutional and an impermissible encroachment on the independence of the judiciary.⁴

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Footnotes

- 1 [State v. Friedley](#), 135 Ind. 119, 34 N.E. 872 (1893).
As to the abolition of courts, see [Am. Jur. 2d, Courts § 7](#).
- 2 [Donegan v. Dyson](#), 269 U.S. 49, 46 S. Ct. 55, 70 L. Ed. 159 (1925).
- 3 [Caldwell v. Lyon](#), 168 Tenn. 607, 80 S.W.2d 80, 100 A.L.R. 1152 (1935).
- 4 [In re Petition of Governor](#), 151 N.H. 1, 846 A.2d 1148 (2004).

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